

Nuclear Regulatory Commission

§ 12.202

establish and the types of proceedings in which the rate should be used. It should also explain fully the reasons why the higher rate is warranted. Within 90 days after the petition is filed, the Commission will determine whether it will initiate a rulemaking proceeding, deny the petition, or take other appropriate action on the petition. The Commission will act on the petition in accordance with 10 CFR 2.803.

§ 12.108 Awards against other agencies.

If an applicant is entitled to an award because it prevails over another agency of the United States that participates in a proceeding before the Commission and takes a position that is not substantially justified, the award or an appropriate portion of the award shall be made against that agency.

§ 12.109 Decisionmaking authority.

Unless otherwise ordered by the Commission in a particular proceeding, each application under this part shall be assigned for decision to the official or decisionmaking body that entered the decision in the adversary adjudication. That official or decisionmaking body is referred to in this part as the “adjudicative officer.”

Subpart B—Information Required From Applicants

§ 12.201 Contents of application.

(a) An application for an award of fees and expenses under the EAJA shall identify the applicant and the proceeding for which an award is sought. The application shall show that the applicant has prevailed and identify the position of the Commission or other agency that the applicant alleges was not substantially justified. Unless the applicant is an individual, the application shall also state the number of employees of the applicant and describe briefly the type and purpose of its organization or business.

(b) The application shall also include a statement that the applicant’s net worth does not exceed \$2 million (if an individual) or \$7 million (for all other applicants, including their affiliates).

However, an applicant may omit this statement if:

(1) The applicant attaches a copy of a ruling by the Internal Revenue Service that it qualifies as an organization described in section 501(c)(3) of the Internal Revenue Code (26 U.S.C. 501(c)(3)) or, in the case of a tax-exempt organization not required to obtain a ruling from the Internal Revenue Service on its exempt status, a statement that describes the basis for the applicant’s belief that it qualifies under this section; or

(2) The applicant states that it is a cooperative association as defined in section 15(a) of the Agricultural Marketing Act (12 U.S.C. 1141j(a)).

(c) The application shall state the amount of fees and expenses for which an award is sought.

(d) The application may also include any other matters that the applicant wishes the Commission to consider in determining whether, and in what amount, an award should be made.

(e) The application shall be signed by the applicant or an authorized officer or attorney of the applicant. It shall also contain or be accompanied by a written verification under oath or under penalty of perjury that the information provided in the application is true and correct.

§ 12.202 Net worth exhibit.

(a) Each applicant, except a qualified tax-exempt organization or cooperative association must provide with its application a detailed exhibit showing the net worth of the applicant and any affiliates (as defined in § 12.104(f) of this part) when the proceeding was initiated. The exhibit may be in any form convenient to the applicant that provides full disclosure of the applicant’s and its affiliates’ assets and liabilities and is sufficient to determine whether the applicant qualifies under the standards in this part. The adjudicative officer may require an applicant to file additional information to determine its eligibility for an award.

(b) Ordinarily, the net worth exhibit will be included in the public record of the proceeding. However, an applicant that objects to public disclosure of information in any portion of the exhibit and believes there are legal grounds for